REMARKS

Initially, in accordance with Applicants' duty to provide the substance of an interview, Applicants submit that an interview occurred on August 22, 2007. During that interview, Applicants provided substantial arguments as to how the claimed invention differs from the disclosures of Awadallah et al. (U.S. Patent Application Publication No. 2005/0027699) and Ortega et al. (U.S. Patent No. 6,489,968). The Examiner agreed to consider these arguments when presented in this Amendment.

In the non-final Office Action, the Examiner rejected claims 1-6, 8, 9, 11-14, 17-22, and 60-63 under 35 U.S.C. § 103(a) as unpatentable over Awadallah et al. in view of Ortega et al.

By this Amendment, Applicants amend claims 20 and 22 to improve form. Claims 1-6, 8, 9, 11-14, 17-22, and 60-63 remain pending. Applicants respectfully traverse the Examiner's rejections under 35 U.S.C. § 103.

In paragraph 8 of the Office Action, the Examiner rejected pending claims 1-6, 8, 9, 11-14, 17-22, and 60-63 under 35 U.S.C. § 103(a) as allegedly unpatentable over Awadallah et al. in view of Ortega et al. Applicants traverse the rejection.

Independent claim 1, for example, is directed to a method comprising receiving a search query from a user; receiving first-search results based at least in part on a search performed using the search query; performing a search of a history database using the search query to obtain second-search results, the history database storing information regarding documents previously accessed by the user; comparing the second-search results to the first-search results to determine whether one of the second-search results is present in the first-search results; adding the one of the second-search results to the first-search results when the one of the second-search results is

not present in the first-search results; modifying the one of the second-search results within the first-search results when the one of the second-search results is present in the first-search results; and outputting the first-search results with the added second-search result or the modified second-search result.

Neither Awadallah et al. nor Ortega et al., whether taken alone or in any reasonable combination, discloses or suggests the combination of features recited in amended claim 1. For example, Awadallah et al. and Ortega et al. do not disclose or suggest performing a search of a history database using a search query received from a user to obtain second-search results, the history database storing information regarding documents previously accessed by the user.

The Examiner alleged that Awadallah et al. discloses a history database that stores information regarding documents previously accessed by a user, but admitted that Awadallah et al. does not disclose or suggest performing a search of the history database (Office Action, page 4). The Examiner alleged, however, that Ortega et al. discloses performing a search of a history database using a search query to obtain second-search results, where the history database stores information regarding documents previously accessed by the user and cited column 11, lines 59-64, of Ortega et al. for support (Office Action, page 4). Applicants submit that the disclosure of Ortega et al. provides no support for the Examiner's allegation.

At column 11, line 57 - column 12, line 24, Ortega et al. discloses:

FIG. 3 illustrates an algorithm that may be used by the Table Generation Process 282 to generate the Popular Items Table 292. This algorithm is preferably applied to the collected purchase history data periodically (e.g., once per day) to generate new table data. In block 310, the process 282 retrieves from the User Database 270 the purchase histories of all users for the most recent X days (e.g., 2 weeks). In block 320, the process uses this data to count the number of times each item was purchased during the X-day interval. In counting the number of purchases, multiple purchases of the same item by the same user may be counted as a single purchase. In addition, different media formats (hardcover, paperback, electronic, etc.) of the same title may be treated as a single "item."

> Further, rather than re-counting the full two weeks worth of purchase history data, the process can simply count the purchases made during the last day (or other appropriate internal) and then combine these results with those generated for the prior X-1 days.
>
> In block 330, the process uses the purchase counts generated in block 320 to identify the best-selling Y items (e.g., 10 items) in each leaf category. Each such list of best-selling items, together with the corresponding purchase count values, is then recorded in the table 292 as a popular items list. The method of FIG. 3 can optionally be extended to generate popular items lists for non-leaf categories.
>
> Although the process used in FIG. 3 uses purchase count as the sole criteria for evaluating item popularity, other types of criteria may additionally or alternatively be used. For example, an item's popularity may be measured based on the number times the item was viewed, rated, searched for, downloaded, or placed into a shopping cart. The specific types of criteria that are available for use will generally depend upon the type of item involved and the nature of the electronic commerce system.

In this section, Ortega et al. discloses a process to generate a popular items table. Ortega et al. discloses that this process retrieves purchase histories for all users for the most recent X days, counts the number of times that each item was purchased during the X-day interval, and uses the counts to identify the best selling Y items in each category. The Examiner appears to allege that the popular items table is equivalent to the history table recited in claim 1. The Examiner confirmed this interpretation in the August 22, 2007 interview. Even assuming, for the sake of argument, that the popular items table can reasonably be equated to the history database (a point that Applicants do not concede), nowhere does Ortega et al. disclose or remotely suggest performing a search of the popular items table using a search query received from a user to obtain second-search results. In fact, nowhere does Ortega et al. disclose or remotely suggest performing a search of the popular items table at all. Instead, Ortega et al. specifically discloses using the popular items table to identify the Y best-selling items in each category (col. 12, lines 8-10).

Further, Awadallah et al. and Ortega et al. do not disclose or suggest comparing the second-search results to the first-search results to determine whether one of the second-search

results is present in the first-search results, as recited in claim 1. The Examiner alleged that

Ortega et al. discloses this feature and cited column 11, line 64 - column 12, line 7, of Ortega et

al. for support (Office Action, page 4). Applicants submit that the disclosure of Ortega et al.

provides no support for the Examiner's allegation.

Column 11, line 64 - column 12, line 7, of Ortega et al. is reproduced above. In this

section, Ortega et al. discloses a process to generate a popular items table. Ortega et al. discloses

that this process retrieves purchase histories for all users for the most recent X days and counts

the number of times that each item was purchased during the X-day interval. Nowhere in this

section does Ortega et al. disclose or remotely suggest performing a comparison, let alone

comparing second-search results to first-search results to determine whether one of the second-

search results is present in the first-search results, as required by claim 1.

Even assuming, for the sake of argument, that the popular items table can reasonably be

equated to the history database (a point that Applicants do not concede), nowhere does Ortega et

al. disclose or remotely suggest comparing any information in the popular items table to first-

search results received based, at least in part, on a search performed using a search query

received from the user. Therefore, Ortega et al. discloses nothing remotely similar to comparing

second-search results (obtained by performing a search of a history database using a search query

received from a user) to first-search results (received based at least in part on a search performed

using the search query received from the user) to determine whether one of the second-search

results is present in the first-search results, as required by claim 1.

Awadallah et al. also does not disclose or suggest comparing second-search results to

first-search results to determine whether one of the second-search results is present in the first-

search results, as required by claim 1. In fact, <u>Awadallah et al.</u> appears to teach away from this feature of claim 1. <u>Awadallah et al.</u> discloses presenting search results from different databases in different regions within a search results page (Figure 2; para. 0043), or mixing the search results from different databases together and clearly labeling their source (para. 0045). Thus, no comparison of search results would occur in <u>Awadallah et al.</u> since the search results are either separately presented, or labeled and presented mixed together. Even in the mixed presentation implementation, <u>Awadallah et al.</u> appears to treat two identical search results from separate databases as two different search results.

Further, <u>Awadallah et al.</u> and <u>Ortega et al.</u> do not disclose or suggest modifying the one of the second-search results within the first-search results when the one of the second-search results is present in the first-search results, as recited in claim 1. The Examiner alleged that <u>Awadallah et al.</u> discloses this feature and cited paragraph 0065 of <u>Awadallah et al.</u> for support, and alleged that <u>Ortega et al.</u> discloses this feature and cited column 13, lines 40-54, of <u>Ortega et al.</u> for support (Office Action, page 6). Applicants submit that the disclosures of <u>Awadallah et al.</u> and <u>Ortega et al.</u> provide no support for the Examiner's allegation.

At paragraph 0065, <u>Awadallah et al.</u> discloses:

> Another embodiment may involve calculating the C-level, Q-level, another level, commercial value and/or any other value of interest for all combinations of numbers of listings from different sources (or other allocation of other resources to usages by different sources) and comparing the results, especially if the number of different combinations of numbers of listings of interest are relatively few and/or the necessary calculations may be performed fast enough so that the user does not notice or does not get significantly annoyed. In an embodiment, a number of values of the function of interest may be calculated in order to bracket or approximately bracket the optimum value within a certain range of combinations of numbers of the different type of listings. Once the optimum combination has been bracketed, combinations within the range may be tried in order to further bracket the optimum combination of listings until an optimum combination is found. Alternatively, trial and error-like techniques or a myriad of other techniques may be used. The optimum value found of the C-level or any other level may be one of a range of values within a set tolerance. The optimum value found for the C-

level or any other level may be one that is most optimal for a set possible composite
search results being considered (e.g., combinations of listings or other resources or search
results selected from search result candidates). The set of possible composite search
results being considered may be a subset of possible composite search results for which a
plurality of expected attributes were calculated. The subset may include those possible
composite search results that satisfy certain conditions, such as an expected attribute
value being below or being above a certain threshold.

In this section, Awadallah et al. discloses that a C-level (defined as the degree to which a search

query is deemed to be commercial (see, e.g., para. 0006)) may be an optimum value in a range of

values, such as one that is most optimal for a set of possible composite search results being

considered, where the set of possible composite search results may be a subset of possible

composite search results, such as composite search results that satisfy certain conditions.

Nowhere in this section, or elsewhere, does Awadallah et al. disclose or remotely suggest

modifying a search result, let alone modifying one of the second-search results (obtained by

performing a search of a history database using a search query received from a user) within first-

search results (received based at least in part on a search performed using the search query

received from the user) when the one of the second-search results is present in the first-search

results, as required by claim 1.

The Examiner further alleged that "combining the listing of search results [in Awadallah

et al.] corresponds to the step of modifying the results claimed" (Office Action, page 6).

Applicants submit that the Examiner's allegation lacks merit. As explained above, Awadallah et

al. does not disclose or remotely suggest comparing second-search results to first-search results

to determine whether one of the second-search results is present in the first-search results, and in

fact appears to teach away from this feature. Therefore, Awadallah et al. cannot disclose or

suggest modifying one of the second-search results within first-search results when the one of the

second-search results is present in the first-search results, as required by claim 1.

At column 13, lines 40-54, <u>Ortega et al.</u> discloses:

> For each book category in which the user performed a search, the "Search" count is incremented (block 535). For each book that the user rated, the "Rating" count is incremented (block 540) for all book categories in which the book falls. For each book placed in the shopping cart, the "Shopping Cart" count is incremented for each book category in which the book falls (block 545). In other embodiments, other user activity may also be counted. In addition, any one of the foregoing types of activity, or a different type of activity, could be used as the exclusive indicator of item popularity. As with the FIG. 3 algorithm, the count values may be generated only for the period of time since the last execution of the algorithm (e.g., the last day), and the results combined with prior results data.

In this section, <u>Ortega et al.</u> discloses that for each book category in which a user performs a search, a search count is incremented; for each book that the user rated, a rating count is incremented; and for each book placed in a shopping cart, a shopping cart count is incremented. Nowhere in this section, or elsewhere, does <u>Ortega et al.</u> disclose or remotely suggest modifying a search result, let alone modifying one of the second-search results (obtained by performing a search of a history database using a search query received from a user) within first-search results (received based at least in part on a search performed using the search query received from the user) when the one of the second-search results is present in the first-search results, as required by claim 1.

Further, even assuming, for the sake of argument, that <u>Ortega et al.</u> can reasonably be understood to disclose modifying one of the second-search results within first-search results when the one of the second-search results is present in the first-search results (a point that Applicants do not concede for at least the reasons given above), the Examiner did not provide a motivation statement for combining this alleged feature of <u>Ortega et al.</u> with the system of <u>Awadallah et al.</u> Thus, the Examiner did not establish a prima facie case of obviousness with regard to claim 1 under this interpretation of <u>Ortega et al.</u>

For at least these reasons, Applicants submit that claim 1 is patentable over <u>Awadallah et al.</u> and <u>Ortega et al.</u>, whether taken alone or in any reasonable combination. Claims 2-6, 8, 9, 11-14, 17-19, and 60-63 depend from claim 1 and are, therefore, patentable over <u>Awadallah et al.</u> and <u>Ortega et al.</u> for at least the reasons given with regard to claim 1. Claims 2-6, 8, 9, 11-14, 17-19, and 60-63 are also patentable over <u>Awadallah et al.</u> and <u>Ortega et al.</u> for reasons of their own.

For example, claim 11 recites moving a position of the one of the second-search results within the first-search results when the one of the second-search results is present in the first-search results. <u>Awadallah et al.</u> and <u>Ortega et al.</u> do not disclose or suggest this feature.

The Examiner alleged that <u>Awadallah et al.</u> discloses this feature and cited paragraph 0045 of <u>Awadallah et al.</u> for support, and alleged that <u>Ortega et al.</u> discloses this feature and cited column 7, lines 45-50, and column 8, lines 8-12, of <u>Ortega et al.</u> for support (Office Action, page 8). Applicants submit that the disclosures of <u>Awadallah et al.</u> and <u>Ortega et al.</u> provide no support for the Examiner's allegation.

At paragraph 0045, <u>Awadallah et al.</u> discloses:

> In an embodiment, each of results from source 1 (202), results from source 2 (204), and results from source 3 (206) are placed on a search results page in distinctly different regions so that it is visually clear that they are from different sources and/or are of different types of results. In an embodiment, results from source 1 (202), results from source 2 (204), and results from source 3 (206) may be in different regions that are not visually distinct, but that are nonetheless logically distinct. Alternatively, results from source 1 (202), results from source 2 (204), and results from source 3 (206) may be mixed together, but nonetheless labeled so that their sources, or the types of source from which they originate, are clear. Optionally, the mixture of results from different sources may be ordered according to a ranking that takes into account each listing's commercial value, quality value, relevance to the search, and/or other measures of the listing's relevance. In other embodiments, the type of source from which the results originate may not be identified or be identifiable.

In this section, <u>Awadallah et al.</u> discloses that search results are presented in different regions on a search results page, or are mixed together and labeled to identify their source. Nowhere in this section, or elsewhere, does <u>Awadallah et al.</u> disclose or remotely suggest moving a position of a search result, let alone moving a position of the one of the second-search results within the first-search results when the one of the second-search results is present in the first-search results, as required by claim 11. Mixing search results is clearly different than moving a position of a search result within a set of search results when the search result is present within the set of search results.

At column 7, lines 44-50, <u>Ortega et al.</u> discloses:

> In the preferred embodiment, the elevated nodes can also be accessed by navigating downward to the "fixed" positions of such nodes. Thus, the process of elevating popular nodes preferably involves copying, as opposed to moving, the nodes to higher levels of the tree. In other embodiments, the nodes may actually be moved within the browse tree.

In this section, <u>Ortega et al.</u> discloses that elevating popular nodes involves copying, <u>as opposed to moving</u>, the nodes to higher levels in the browse tree. Accordingly, <u>Ortega et al.</u> teaches away from moving. Therefore, <u>Ortega et al.</u> cannot disclose or suggest moving a position of the one of the second-search results within the first-search results when the one of the second-search results is present in the first-search results, as required by claim 11.

At column 8, lines 8-12, <u>Ortega et al.</u> discloses:

> In addition to node popularity levels, other types of criteria may be used to select the nodes to be elevated. For example, a bias can be added to node selection process to cause newly added items and/or leaf categories to be elevated more frequently than other types of nodes.

In this section, <u>Ortega et al.</u> discloses that in addition to node popularity, other criteria may be used to select nodes to be elevated. Nowhere in this section, or elsewhere, does <u>Ortega et al.</u> disclose or suggest moving a position of a search result, let alone moving a position of the one of

the second-search results within the first-search results when the one of the second-search results is present in the first-search results, as required by claim 11.

Further, even assuming, for the sake of argument, that Ortega et al. can reasonably be understood to disclose moving a position of the one of the second-search results within the first-search results when the one of the second-search results is present in the first-search results (a point that Applicants do not concede for at least the reasons given above), the Examiner did not provide a motivation statement for combining this alleged feature of Ortega et al. with the system of Awadallah et al. Thus, the Examiner did not establish a prima facie case of obviousness with regard to claim 11 under this interpretation of Ortega et al.

For at least these additional reasons, Applicants submit that claim 11 is patentable over Awadallah et al. and Ortega et al. Claims 12 and 13 depend from claim 11 and are, therefore, patentable over Awadallah et al. and Ortega et al. for at least the reasons given with regard to claim 11.

Claim 62 recites performing a local search using a search query received from a user without transmitting the search query on a network. Awadallah et al. and Ortega et al. do not disclose or suggest this feature.

The Examiner alleged that Ortega et al. discloses this feature and cited column 11, lines 59-64, of Ortega et al. for support (Office Action, page 15). Applicants submit that the disclosure of Ortega et al. provides no support for the Examiner's allegation.

Column 11, lines 59-64, of Ortega et al. is reproduced above. In this section, Ortega et al. discloses a process to generate a popular items table. Ortega et al. discloses that this process retrieves purchase histories for all users for the most recent X days and counts the number of

times that each item was purchased during the X-day interval. As explained in detail above, Ortega et al. does not disclose or remotely suggest performing a search of the popular items table, let alone performing a search of the popular items table using a search query received from a user. Therefore, Ortega et al. cannot disclose or remotely suggest performing a local search of the popular items table using a search query received from a user without transmitting the search query on a network, as would be required by claim 62.

Further, Ortega et al. shows the popular items table as being located remote from the user computers (e.g., Fig. 2 shows popular items table 292 connecting to user computers 230 via the Internet). The Examiner has not explained how a search could be performed in the popular items table using a search query received from a user without transmitting the search query on a network, as would be required by claim 62. Thus, the Examiner has not established a prima facie case of obviousness with regard to claim 62.

For at least these additional reasons, Applicants submit that claim 62 is patentable over Awadallah et al. and Ortega et al. Claim 63 recites a feature similar to, yet possible different in scope from, the feature recited in claim 62. Claim 63 is, therefore, therefore, patentable over Awadallah et al. and Ortega et al. for at least reasons similar to the reasons given with regard to claim 62.

Amended independent claims 20 and 22 recite features similar to, yet possibly different in scope from, features recited in claim 11. Claims 20 and 22 are, therefore, patentable over Awadallah et al. and Ortega et al., whether taken alone or in any reasonable combination, for at least reasons similar to the reasons given with regard to claim 11.

Independent claim 21 recites features similar to, yet possibly different in scope from, features recited in claim 1. Claim 21 is, therefore, patentable over <u>Awadallah et al.</u> and <u>Ortega et al.</u>, whether taken alone or in any reasonable combination, for at least reasons similar to the reasons given with regard to claim 1.

Accordingly, Applicants respectfully request the Examiner's reconsideration and withdrawal of the rejection of claims 1-6, 8, 9, 11-14, 17-22, and 60-63 under 35 U.S.C. § 103 based on <u>Awadallah et al.</u> and <u>Ortega et al.</u>

In view of the foregoing amendments and remarks, Applicants respectfully request the Examiner's reconsideration of the application and the timely allowance of the pending claims.

As Applicants' remarks with respect to the Examiner's rejections overcome the rejections, Applicants' silence as to certain assertions by the Examiner in the Office Action or certain requirements that may be applicable to such rejections (e.g., whether a reference constitutes prior art, motivation to combine references, assertions as to dependent claims, etc.) is not a concession by Applicants that such assertions are accurate or that such requirements have been met, and Applicants reserve the right to dispute these assertions/requirements in the future.

If the Examiner believes that the application is not now in condition for allowance, Applicants respectfully request that the Examiner contact the undersigned to discuss any outstanding issues.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-1070 and please credit any excess fees to such deposit account.

Respectfully submitted,

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